

***Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554***

Neuhoff Family Limited Partnership)	File No. CSR-
)	
)	
For Waiver of Sections 76.92(f))	
and 76.106(a) of the Commission's)	
Rules)	

To: The Secretary
Attn: Chief, Media Bureau

PETITION FOR SPECIAL RELIEF

Neuhoff Family Limited Partnership (NFLP), licensee of Station KMVT(TV), Twin Falls, Idaho, through its attorneys and pursuant to Section 76.7 of the rules, hereby requests a waiver of the "significantly viewed" exception to the Commission's network non-duplication and syndicated exclusivity rules (47 C.F.R. 76.92(f) and 76.106(a)), respectively), as applied to Station KIDK, Idaho Falls, Idaho, Facility ID No. 56028 (KIDK). In particular, NFLP requests permission to exercise its network nonduplication and syndicated exclusivity rights against KIDK in the following Idaho cable communities: Carey, Bellevue, Hailey and Ketchum (Blaine County) Paul, Heyburn and Rupert (Minidoka County), and Murtaugh, Oakley, Burley, Malta, Declo and Albion (Cassia County). Cable systems currently are not required to delete the network and syndicated

programming broadcast by KIDK.¹ However, as shown herein, while KIDK is included on the Commission's 1972 list of significantly viewed signals, the station no longer attains the viewing levels set forth in Section 76.5(i)1) of the rules required to maintain such status. Under these circumstances, NFLP requests that the Bureau find that KIDK is no longer significantly viewed in the aforementioned communities such that NFLP may enforce its rights to network program non-duplication and syndicated exclusivity vis-à-vis KIDK.

KMVT is a Columbia Broadcasting System (CBS) affiliate licensed to Twin Falls, which is the Twin Falls DMA. KIDK is a CBS affiliate located in the Idaho Falls-Pocatello DMA. NFLP holds exclusive rights to distribute CBS programming via KMVT to the Twin Falls DMA, which includes among other areas the counties in which the target communities are located. However, because KIDK is considered significantly viewed in these communities, cable systems in these areas may not be required to delete the CBS network and syndicated programming offered by KIDK.

Section 76.54 and established case law set forth the method to be followed to seek the relief requested by NFLP herein. NFLP sent notices as required by Section 76.54(c) at least thirty days prior the commissioning of an appropriate independent audience survey. No response to these notices was

¹ See, Memorandum Opinion and Order, 36 FCC 2d 326, Appendix B (1972) ("Significantly Viewed List"); see also <http://transition.fcc.gov/mb/significantviewedstations120611.pdf> ("Significantly Viewed List"), last modified December 6, 2011.

received. After waiting the required period, NFLP commissioned The Nielsen Company to tabulate previously collected sweeps data.

As shown herein, KIDK no longer meets the requirements for significantly viewed status in the target communities. Section 76.5(i) of the rules requires KIDK to attain at least a three percent share of total weekly viewing hours and a net weekly circulation of at least 25 percent among over-the-air households in the subject communities, calculated to one standard error. To justify a waiver of the significantly viewed exception to the rules, the Commission requires a demonstration, using community- or system-specific data compiled by an independent study, that the subject station has not met the standards for significant viewing for two consecutive years.²

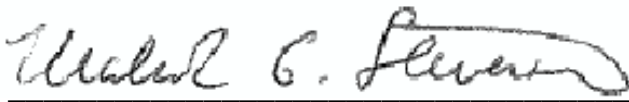
Attached hereto as Exhibit A are data compiled by The Nielsen Company from non-cable/non-ADS households in the subject communities during July and November of 2010 and July and November of 2011. The data show that KIDK did not attain a share of at least three percent of total weekly viewing hours or a net weekly circulation of at least 25 percent among over-the-air households. In fact, KIDK had no measurable share of total weekly viewing hours or net weekly circulation during any of these survey periods. KIDK obviously does not meet the Commission's standards for maintaining significantly viewed status.

² See, e.g., KCST-TV, Inc., 103 FCC 2d 407, 413 (1986); Wyomedia Corporation, Memorandum Opinion and Order, DA 11-477, released March 10, 2011.

WHEREFORE, for the foregoing reasons, NFLP respectfully requests that the Bureau waive the significantly viewed exception to the network non-duplication and syndicated exclusivity rules to allow NFLP to assert its network program non-duplication and syndicated exclusivity rights against KIDK in the target communities.

Respectfully submitted,

NEUHOFF FAMILY LIMITED PARTNERSHIP

By 
Malcolm G. Stevenson

SCHWARTZ, WOODS & MILLER
The Lion Building
1233 20th Street, NW
Suite 610
Washington, DC 20036-7322
202-833-1700 – Phone
202-833-2351 – Fax

Its Attorneys

March 29, 2012

EXHIBIT A



Significant Viewing Study
Twin Falls
Jul10, Nov10, Jul11 & Nov11
Su-Sa 7A-1A
KMVT & KIDK

KMVT

Geography Grouping	Results	Jul10 & Nov10 Combined	Jul11 & Nov11 Combined
Minidoka County (zip codes = 83347, 83336, 83350)	Number of Intabs	10	9
	Average Weekly Cume	23.29	60.06
	Cume Std. Error	15.85	15.53
	Share	47.95	42.66
	Share Std. Error	9.84	19.82
Cassia County (zip codes = 83344, 83346, 83318, 83342, 83323, 83311)	Number of Intabs	16	12
	Average Weekly Cume	65.44	65.49
	Cume Std. Error	11.56	18.08
	Share	38.34	43.91
	Share Std. Error	8.35	6.68
Blaine County (zip codes = 83320, 83313, 83333, 83340)	Number of Intabs	2	4
	Average Weekly Cume	50.00	0.00
	Cume Std. Error	0.00	0.00
	Share	80.21	0.00
	Share Std. Error	0.00	0.00

KIDK

Geography Grouping	Results	Jul10 & Nov10 Combined	Jul11 & Nov11 Combined
Minidoka County (zip codes = 83347, 83336, 83350)	Number of Intabs	10	9
	Average Weekly Cume	0.00	0.00
	Cume Std. Error	0.00	0.00
	Share	0.00	0.00
	Share Std. Error	0.00	0.00
Cassia County (zip codes = 83344, 83346, 83318, 83342, 83323, 83311)	Number of Intabs	16	12
	Average Weekly Cume	0.00	0.00
	Cume Std. Error	0.00	0.00
	Share	0.00	0.00
	Share Std. Error	0.00	0.00
Blaine County (zip codes = 83320, 83313, 83333, 83340)	Number of Intabs	2	4
	Average Weekly Cume	0.00	0.00
	Cume Std. Error	0.00	0.00
	Share	0.00	0.00
	Share Std. Error	0.00	0.00



The attached report provides audience net weekly circulation (cume) and share information among non-cable/non-ADS households for KMVT and KIDK during the Nielsen Station Index (NSI) survey conducted over four week periods during the July 2010, November 2010, July 2011 and November 2011 measurement periods. The report is based on series on a series of zip codes corresponding to specified communities.

BLAINE COUNTY, IDAHO

Carey, ID	Zip code 83320
Bellevue, ID	Zip Code 83313
Hailey, ID	Zip Code 83333
Ketchum, ID	Zip Code 83340

MINIDOKA COUNTY, IDAHO

Paul, ID	Zip Code 83347
Heyburn, ID	Zip Code 83336
Rupert, ID	Zip code 83350

CASSIA COUNTY, IDAHO

Murtaugh, ID	Zip Code 83344
Oakley, ID	Zip Code 83346
Burley, ID	Zip Code 83318
Malta, ID	Zip code 83342
Declo, ID	Zip Code 83323
Albion, ID	Zip Code 83311

Households will maintain the reported Nielsen Viewers in Profile (VIP) weights used to project in-tab sample households to universe estimates for their respective measurement periods. This study measures non-cable/non-ADS household viewing between 7AM-1AM, Monday to Sunday.

The sample source for this survey consisted of non-cable/non-ADS TV households returning usable television viewing diaries. NSI procedures were used for distributing diaries and for compiling the estimated audience projections in this report. Average quarter hour projections were computed by summing weights for quarter hours in the daypart for the non-cable/non-ADS in-tab households and dividing by the number of quarter hours in the daypart. The weights which were used for projections are those used to project in-tab sample households to universe estimates in the regular Nielsen Viewers in Profile analysis. Share and cume estimates as well as their respective standard errors are computed for each of the geographies as follows:

Shares of total viewing are computed by dividing average quarter hour M-Su 7AM-1AM projections of a given station for the non-cable/non-ADS in-tab households by the average quarter hour M-Su 7AM-1AM projections in non-cable/non-ADS households across all stations. The associated standard error is calculated using the accepted formula for computing the standard error of a ratio estimate and is shown below:



The average weekly circulation (cume) is an average of the four weeks of the measurement period. The cume was computed by summing the weights for all non-cable/non-ADS households tuning at least one quarter hour to a given station within the cycle during the M-Su 7AM-1AM daypart and dividing by the sum of all non-cable/non-ADS weights within the given measurement period for each week. The cume for each week in the measurement period is then summed and divided by the number of weeks in the measurement period to compute the average weekly cume. The associated standard error for the average weekly cume is calculated using the accepted formula for computing the standard error of a ratio estimate. This standard error is the error of the average weekly cume; it is not an average of the weekly standard error. The formulas used are shown below:

Share

$$Share = \frac{\sum_1^n (w * Qhrs(s))}{\sum_1^n (w * Qhrs(t))}$$

Share Standard Error

$$Std Error = \sqrt{\frac{n}{n-1} * \sum_1^n \left[\frac{(w * Qhrs(s)) - (Share * w * Qhrs(t))}{\sum_1^n (w * Qhrs(t))} \right]^2}$$

where n = number of intab households

where w = household weight

where $Qhrs(s)$ = total quarter hours tuned to station of interest by household

where $Qhrs(t)$ = total quarter hours tuned by household

Average Weekly Cume

$$Average Weekly Cume = \frac{1}{z} * \sum_1^z \left[\frac{\sum_1^n (HH Weight * x)}{\sum_1^n HH Weight} \right]$$

Average Weekly Cume Standard Error



$$Std\ Error = \sqrt{\frac{1}{z^2} \sum_1^z \left[\frac{n}{n-1} * \sum_1^n \left[\frac{(x - Week\ Cume) * HH\ Weight}{\sum_1^n HH\ Weight} \right]^2 \right]}$$

where z = number of weeks in analysis (with non-zero intabs)

where n = number of intab households in week

where $x = 0$ if household did not tune station of interest

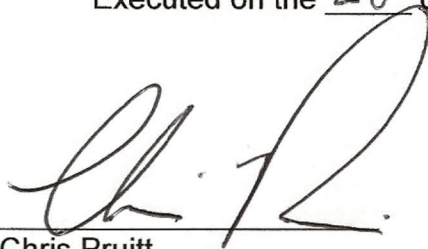
where $x = 1$ if household did tune station of interest

The attached report is representative of the viewing patterns of the non-cable/non-ADS households of the geographic area surveyed.

DECLARATION

I declare, under penalty of perjury, that I have reviewed the foregoing pleading and that the facts set forth therein are true and correct to the best of my knowledge, information and belief.

Executed on the 28 day of March, 2012.

A handwritten signature in dark ink, appearing to read "Chris Pruitt", written over a horizontal line.

Chris Pruitt
General Manager
KMVT(TV), Twin Falls, Idaho

CERTIFICATE OF SERVICE

I, Nancy Marie Cassady, Administrative Assistant in the law offices of Schwartz, Woods & Miller, do hereby certify that I have on this 29th day of March, 2012, sent by First Class United States mail, postage prepaid, a copy of the foregoing **PETITION FOR SPECIAL RELIEF** to

Wade H. Hargrove, Esq.
Brooks Pierce McLendon Humphrey
& Leonard, LLP
PO Box 1800
Raleigh, NC 27602
Counsel for Fisher Broadcasting,
SE Idaho TV, LLC

Fisher Broadcasting,
SE Idaho TV, LLC
1915 N. Yellowstone Highway
Idaho Falls, ID 83401

Sun Valley Television, LLC
16 West Croy Street
Halley, ID 83333

News-Press Group of Idaho, Inc.
825 Edmond Street
St. Joseph, MO 64501

Cable One
261 Eastland Drive
Twin Falls, ID 83301

Block Communications
1 Sixth Street, North
Nampa, ID 83687

Falls Broadcasting Company
902 East Sherman Street
Pocatello, ID 83201

Twin Broadcasting, Inc.
PO Box 391
Twin Falls, ID 83303

State Board of Education
State of Idaho
1455 N. Orchard Street
Boise, ID 83706

Mr. Craig Gates
PMT Cable
507 G Street
Rupert, ID 83350

Family Stations, Inc.
4135 Northgate Boulevard
Suite 1
Sacramento, CA 95834

Journal Broadcast Corporation
1866 E. Chisholm Drive
Nampa, ID 83687

King Broadcasting Company
PO Box 7
Boise, ID 83707

Oregon Trail Broadcasting
1500 Fore Master Lane
Las Vegas, NV 89011

Idaho State University
921 S. 8th Avenue Mailstop 8014
Idaho State University
Pocatello, ID 83209

Cox Cable
105 Lewis Street
Ketchum, ID 83340

Compass Communications
137 Magnolia Bend Drive
Livingston, TX 77351

Dish Network
9601 S. Meridian Boulevard
Englewood, CO 80112

Christian Broadcasting of Idaho, Inc.
PO Box 391
Twin Falls, ID 83303

Belo Communications
5407 W. Fairview Avenue
Boise, ID 83703

Rural Telephone
892 Madison Avenue
Glenns Ferry, ID 83623

Nancy M. Cassady

Nancy M. Cassady